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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,963	01/15/2002	Robert P. Schmidt	19001.023	5952

7590 08/24/2005

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EXAMINER

HO, TUAN V

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,963

Applicant(s)

SCHMIDT, ROBERT P.

Examiner

Tuan V. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 2-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's arguments filed 2/8/2005 have been fully considered but they are not persuasive.

With regard to claim 1, Applicant argues:

1) "Shono does not teach or suggest a window viewing portion surrounded and supported by a frame and providing unobstructed viewing pf an LCD screen as in the present invention", page 3 of the remarks. In response to the arguments, the examiner notes that window 17 of a magnifier is surrounded and supported by frame 16b via hood 16a; where a user can view a displayed image on LCD 11 through widow 17 without any view obstruction. Noted that frame 16b is used as a base to support window 17 through hood 16a.

2) "the device of Shono does not provide unobstructed view of the LCD screen", page 4 of the remarks. In response to the arguments, the examiner notes that widow 17 made of a magnifier lens is used to view a displayed image on LCD 11 without any obstruction. Noted that claim 1 does not recite any limitation that requires a user views an image without any obstruction through a magnifier.

3) "the present invention is not tubular but instead is a cap", second paragraph, page 4 of the remarks. The argument is not relevant since the cap is not recited in claim 1.

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The examiner understands the differences between the invention and the prior art; however, claims 1 is broad enough to read on the prior art.

Since the rejection of claim 1 is repeated, claims 9-11 are rejected again under Shono in view of Harvey further in view of Suzuki.

2. The amendments of the specification in Page 4 has been entered.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Shono (US 6,453,125).

With regard to claim 1, Shono clearly shows all of the limitations cited in claim 1. See all material cited in

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the specification. Shono describes a protective device for a digital camera view finder including a LCD screen that comprises: a frame adapted to fit around edges of the viewfinder (figure 1, item 16) and (columns 2, lines, 62-66), said frame including connectors for connecting said frame to edges of the viewfinder or LCD (figure 1, item 16b) and (columns 2, lines; 62-66), and a window viewing portion surrounded and supported by said frame providing unobstructed viewing of said LCD screen through said window (figure 1, item 17 and LCD 11) and (column 2, lines 55-66).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shono in view of Harvey.

Shono describes the protective device of claim 1, but does not teach the device comprising plastic material.

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Shono does not explicitly disclose any device comprising plastic material. However, Harvey describes a camera with bellows (Harvey: figure 2, item 18) preferably made of flexible opaque plastic material (figure 2, item 18 and column 3, Lines 21-25).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the viewer of Shono to be comprised of plastic material as disclosed by Harvey in that it commonly known within the art that plastic is widely used, as it is strong and cheaper than most materials.

6. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shono in view of Harvey further in view of Suzuki.

With regard to claim 10, Shono in view of Harvey describes the protective device of claim 9, but does not teach said window viewing portion is scratch resistant. Suzuki describes a coated lens (viewing portion) showing excellent scratch resistance (Suzuki: column 12, lines 24-26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the protective device of Shono as modified by Harvey to

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include a viewing portion that is scratch resistant. One would have been motivated to provide a scratch resistant viewing portion since plastic lenses have become increasingly popular and scratch resistant coatings have often been suggested (Suzuki: column 1, lines 1 8-22).

With regard to claim 11, Shono in view of Harvey describes the protective device of claim 9, but does not teach said window viewing portion as comprising Lexan (RTM) plastic. Suzuki teaches of viewing portion (or lens) being produced of Lexan (Suzuki: column 12, lines 17-26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the protective device of Shono as modified by Harvey to include a viewing portion that is Lexan plastic. One would have been motivated to provide a Lexan plastic viewing portion since plastic lenses including scratch resistance have been increasingly popular (Suzuki, column 12, lines 17-26).

7. Claims 2-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN HO whose telephone number is (571) 272-7365. The examiner can normally be reached on Mon-Fri from 7AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is (572) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (571) 272-2600.

A handwritten signature in black ink, appearing to read 'Tuan Ho', is positioned above the printed name.

TUAN HO

Primary Examiner

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